

§ 325. Relief from National Guard duty when ordered to active duty

(a) Each member of the Army National Guard of the United States or the Air National Guard of the United States who is ordered to active duty is relieved from duty in the National Guard of his State or Territory, or of Puerto Rico or the District of Columbia, as the case may be, from the effective date of his order to active duty until he is relieved from that duty.

(b) So far as practicable, members, organizations, and units of the Army National Guard of the United States or the Air National Guard of the United States ordered to active duty shall be returned to their National Guard status upon relief from that duty.

(Aug. 10, 1956, ch. 1041, 70A Stat. 607; Pub. L. 100-456, div. A, title XII, §1234(b)(6), Sept. 29, 1988, 102 Stat. 2059.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
325(a)	50:1120.	July 9, 1952, ch. 608,
325(b)	50:1122(b) (less last 17 words).	§§ 710, 712(b) (less last 17 words), 66 Stat. 503, 504.

In subsection (a), the words “in the service of the United States” are omitted as surplusage. The words “effective date of his order to active duty until he is relieved from that duty” are substituted for the words “active-duty date of the orders and for as long as they remain on active duty in the service of the United States”. 50:1120 (last sentence) is omitted as surplusage, since the persons involved are members of the Army or the Air Force.

In subsection (b), the words “upon relief from that duty” are substituted for the words “upon being relieved from active duty”. The words “their National Guard status” are substituted for the words “to the National Guard and Air National Guard in their respective States, Territories, and the District of Columbia”.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100-456 struck out “, the Canal Zone,” after “Puerto Rico”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 706 of this title.

§ 326. Courts-martial of National Guard not in Federal service: composition, jurisdiction, and procedures

In the National Guard not in Federal service, there are general, special, and summary courts-martial constituted like similar courts of the Army and the Air Force. They have the jurisdiction and powers, except as to punishments, and shall follow the forms and procedures, provided for those courts. Punishments shall be as provided by the laws of the respective States and Territories, Puerto Rico, and the District of Columbia.

(Aug. 10, 1956, ch. 1041, 70A Stat. 608; Pub. L. 107-314, div. A, title V, §512(a), Dec. 2, 2002, 116 Stat. 2537.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
326	32:91.	June 3, 1916, ch. 134, §102, 39 Stat. 208.

The words “not in Federal service” are substituted for the words “Except in organizations in the service of the United States”. The words “have the jurisdiction and powers” are substituted for the words “and have cognizance of the same subjects, and possess like powers”. The words “of three kinds, namely”, “provided for by the laws and regulations governing”, “proceedings of courts-martial of the National Guard”, and “modes of” are omitted as surplusage.

AMENDMENTS

2002—Pub. L. 107-314 inserted at end “Punishments shall be as provided by the laws of the respective States and Territories, Puerto Rico, and the District of Columbia.”

§ 327. Courts-martial of National Guard not in Federal service: convening authority

(a) In the National Guard not in Federal service, general, special, and summary courts-martial may be convened as provided by the laws of the respective States and Territories, Puerto Rico, and the District of Columbia.

(b) In the National Guard not in Federal service—

(1) general courts-martial may be convened by the President;

(2) special courts-martial may be convened—

(A) by the commanding officer of a garrison, fort, post, camp, air base, auxiliary air base, or other place where members of the National Guard are on duty; or

(B) by the commanding officer of a division, brigade, regiment, wing, group, detached battalion, separate squadron, or other detached command; and

(3) summary courts-martial may be convened—

(A) by the commanding officer of a garrison, fort, post, camp, air base, auxiliary air base, or other place where members of the National Guard are on duty; or

(B) by the commanding officer of a division, brigade, regiment, wing, group, detached battalion, detached squadron, detached company, or other detachment.

(c) The convening authorities provided under subsection (b) are in addition to the convening authorities provided under subsection (a).

(Aug. 10, 1956, ch. 1041, 70A Stat. 608; Pub. L. 100-456, div. A, title XII, §1234(b)(4), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 107-314, div. A, title V, §512(b), Dec. 2, 2002, 116 Stat. 2537.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
327(a)	32:92 (1st 46 words).	June 3, 1916, ch. 134, §103, 39 Stat. 208.
327(b)	32:92 (less 1st 46 words).	

In subsection (a), the words “Federal service” are substituted for the words “service of the United States”.

In subsection (b), the words “A general court-martial may sentence to—” are substituted for the words “and such courts shall have the power to impose * * * to sentence”. The words “any combination of these punishments” are substituted for the words “or any two or more of such punishments may be combined in the sentences imposed by such courts”.